



OFFICE of the ATTORNEY GENERAL
GREG ABBOTT

April 16, 2003

Ms. Angela M. DeLuca
Assistant City Attorney
City of College Station
P.O. Box 9960
College Station, Texas 77842-9960

OR2003-2580

Dear Ms. DeLuca:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 179507.

The College Station Police Department (the "department") received a request for fourteen categories of information regarding a specified police officer. You state that you have released to the requestor information responsive to categories 12 and 13, and you have also withheld some responsive information from disclosure pursuant to a previous determination that our office granted all governmental bodies in Open Records Decision No. 670 (2001), and to previous determinations that our office granted to College Station in Open Records Letter Rulings 2002-2022 (2002), 2002-0053 (2002), 2001-5847 (2001), and 2001-5574 (2001). You claim, however, that the remaining requested information is excepted from disclosure pursuant to sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim and have reviewed the submitted information.

We first note that the submitted information at issue is subject to a previous ruling. In Open Records Letter No. 2003-1986 (2003), this office considered a request to the city for the same fourteen categories of information pertaining to a specified police officer. In that instance we ruled that, with the exception of categories 12 and 13, the remaining 12 categories of information may be withheld under section 552.108(a)(1) of the Government Code. *See* Gov't Code § 552.301(a), (f); *see also* Open Records Decision No. 673 (2001). We also determined that the city could rely on 2003-1986 to withhold the same types of information from future requestors, but only when there is pending prosecution where the officer in question is the arresting officer in a DWI case, the officer will be a witness in the

prosecution, and the information is the type of information used at trial to determine the credibility of the officer, competency to testify, and qualification as an expert witness. In the instant case, the information responsive to categories 12 and 13 has been released to the requestor, the officer in question is the arresting officer in a DWI case, the officer will be a witness in the prosecution, and the information is the type of information used at trial to determine the credibility of the officer, competency to testify, and qualification as an expert witness. As we have no indication that the facts and circumstances on which the prior ruling was based have changed, you may continue to rely on Open Records Letter No. 2003-1986 as a previous determination and withhold the submitted information in accordance with Open Records Letter No. 2003-1986. *See* Open Records Decision No. 673 (2001) (so long as law, facts, circumstances on which prior ruling was based have not changed, the first type of previous determination exists where requested information is precisely the same information as was addressed in a prior attorney general ruling, the ruling is addressed to the same governmental body, and the ruling concludes that the information is or is not excepted from disclosure).

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Heather Pendleton Ross
Assistant Attorney General
Open Records Division

HPR/sdk

Ref: ID# 179507

Enc: Submitted documents

c: Mr. Cameron D. Reynolds
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(w/o enclosures)